

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Schiavo	Team: Team # 4	CCRB Case #: 201402626	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/12/2014 3:00 PM	Location of Incident: 40 West 225th Street	Precinct: 52	18 Mo. SOL 8/12/2015	EO SOL 8/12/2015	
Date/Time CV Reported Tue, 02/18/2014 12:05 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/18/2014 12:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Felix Liberato	08672	950749	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Frank Pacella	27431	919525	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Felix Liberato	Off. Language: PO Felix Liberato made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	
B.POM Felix Liberato	Discourtesy: PO Felix Liberato spoke discourteously to an individual.	
C.POM Felix Liberato	Abuse: PO Felix Liberato threatened to arrest an individual.	

Case Summary

On February 18, 2014, during a phone statement to the CCRB for case number § 87(2)(b) § 87(2)(b) reported this incident (encl. 3-5). On February 12, 2014, at 40 West 225th Street in the Bronx, § 87(2)(b) received a summons from PO Felix Liberato of the 52nd Precinct. The following allegations resulted:

- **Allegation A – Offensive Language:** PO Felix Liberato made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)
- **Allegation B – Discourtesy:** PO Felix Liberato spoke discourteously to § 87(2)(b)
- **Allegation C – Abuse of Authority:** PO Felix Liberato threatened to arrest § 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

This complaint was initially assigned to Investigator Robert Hart. On June 27, 2014, it was reassigned to Inv. Alex Schiavo following Inv. Hart's resignation from the agency. This complaint was unsuitable for mediation due to a lawsuit.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) is a § 87(2)(b) Hispanic male who is 5'10" tall, weighs 190 pounds, and has black hair and black eyes.

CCRB Statement

On February 18, 2014, § 87(2)(b) provided a phone statement for CCRB #§ 87(2)(b) at which time he provided a narrative about this incident (encl. 3-5). On March 19, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 6-9a). § 87(2)(g)

On February 12, 2014, at approximately 2:30 p.m., § 87(2)(b) arrived in the vicinity of 40 West 225th Street in the Bronx. At the location is a Target store that § 87(2)(b) often goes to pursuant to his job as an unlicensed cab driver.

On this day, § 87(2)(b) was at Target to go shopping. Before entering the store, § 87(2)(b) stopped to speak with § 87(2)(b) a Hispanic female who lives in the area and is friends with § 87(2)(b). A marked van pulled up near where § 87(2)(b) and § 87(2)(b) were speaking. § 87(2)(b) ran into the Target upon seeing the vehicle. Unlicensed cab drivers who congregate near Target also ran into the store. § 87(2)(b) entered the Target and walked straight to the men's bathroom.

As § 87(2)(b) exited the bathroom, two officers, later identified as PO Felix Liberato and PO Frank Pacella, were standing in the store. PO Liberato said to § 87(2)(b) "Let me get your ID toots, you're in the wrong bathroom." An unidentified male said to PO Liberato, "What you're doing is sexually harassing the guy." PO Liberto replied, "Shut the fuck up if you don't want to get locked up." § 87(2)(b) told PO Liberato that § 87(2)(b) had done nothing wrong. PO Liberato told her to be quiet. § 87(2)(b) and the officers walked out to § 87(2)(b)'s vehicle, which was parked across the street, so he could obtain his identification. PO Liberato issued § 87(2)(b) a summons for § 87(2)(b).

Witness: § 87(2)(b)

- § 87(2)(b)

Phone Statement

On February 2, 2015, § 87(2)(b) provided a brief telephone statement (encl. 9b). She stated that she was § 87(2)(b) who worked the floor at the time of the incident. § 87(2)(b) has notified police about cab drivers harassing customers. Officers respond very often to the store for various reasons, and § 87(2)(b) had no independent recollection of the incident. § 87(2)(b) stated that cab drivers often run into the store and use the bathroom when they see police. § 87(2)(b) has never heard an officer tell a cab driver, “Let me get your ID toots, you’re in the wrong bathroom.”

Attempts to Contact Civilians

On November 10, 2014, and November 19, 2014, the CCRB left voicemail messages at the phone number that § 87(2)(b) provided for “§ 87(2)(b). To date, she has not contacted the CCRB. Without further information, database searches could not be conducted to obtain additional contact information.

NYPD Statements:

Subject Officer: PO FELIX LIBERATO

- *PO Liberato is a § 87(2)(b)-old Hispanic male who is 5’9” tall, weighs 235 pounds, and has black hair and brown eyes.*
- *On February 12, 2014, PO Liberato worked from 9:30 a.m. to 6:05 p.m. with PO Pacella. They were dressed in uniform and assigned to a business condition in marked RMP #8668.*

Memo Book

According to PO Liberato’s memo book, at 3:00 p.m., he issued § 87(2)(b) a § 87(2)(b). § 87(2)(b) was observed on a public sidewalk with intent to cause disruption and a gathering. When he was ordered to disperse, he refused by not leaving the premises (encl. 10-12).

CCRB Statement

PO Liberato was interviewed at the CCRB on November 20, 2014 (encl. 13-14). PO Liberato knows § 87(2)(b) because § 87(2)(b) is an illegal cab driver who is often at the Target at 40 West 225th Street in the Bronx. On February 12, 2014, at approximately 2:55 p.m., PO Liberato approached a group of several illegal cab drivers in the store’s entryway. He had been there approximately three times earlier in his tour and told them they had to leave. This was the second occasion on which PO Liberato had seen § 87(2)(b). As § 87(2)(b) observed PO Liberato, he ran into the store and went into the men’s restroom. Illegal cab drivers often do that to feign as if they are patronizing the store.

PO Liberato walked into the store and observed § 87(2)(b) walk out of the restroom. He requested § 87(2)(b)’s identification and explained that § 87(2)(b) had refused the earlier order to disperse and he was clearly not shopping. PO Liberato did not say, “Let me get your ID, toots. You’re in the wrong bathroom.” He never implied that § 87(2)(b) should have been using the women’s bathroom, nor did he make any homophobic remarks. No bystanders spoke to PO Liberato. PO Liberato did not tell a bystander, “Shut the fuck up if you don’t want to get locked up.” PO Liberato did not use any profanity towards any bystanders or threaten to arrest any bystanders. § 87(2)(b) provided his identification, and PO Liberato wrote him a

summons for § 87(2)(b)

Witness Officer: PO FRANK PACELLA

- PO Pacella is a § 87(2)(b) -old white male who is 5'11" tall, weighs 270 pounds, and has brown hair and brown eyes.
- On February 12, 2014, PO Pacella worked with PO Liberato from 9:30 a.m. to 6:05 p.m. They were dressed in uniform and assigned to business conditions in marked RMP #4372.

Memo Book

PO Pacella did not have any memo book entries pertaining to an incident at 40 West 225th Street (encl. 15-16).

CCRB Statement

PO Pacella was interviewed at the CCRB on December 3, 2014 (encl. 17-18). He corroborated PO Liberato's account of the illegal cab driver problem at the location, but he did not recall the details surrounding the incident. PO Pacella denied hearing PO Liberato make any of the alleged remarks.

Summons for Incident and Disposition

- A request to the Bronx Criminal Court Summons Part is pending regarding the disposition of the summons that § 87(2)(b) received.

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of September 12, 2014, with regard to the incident.

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Civilian CCRB History

- § 87(2)(b) has filed the following CCRB complaints § 87(2)(b)
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

Subject Officer CCRB History

- PO Liberato has been a member of the service for three years and there are no substantiated

CCRB allegations against him (encl. 1). § 87(2)(b)

Conclusion

Identification of Subject Officer

PO Liberato acknowledged that he interacted with § 87(2)(b)

Investigative Findings and Recommendations

Allegation A – Offensive Language: PO Felix Liberato made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

Allegation B – Discourtesy: PO Felix Liberato spoke discourteously to § 87(2)(b)

Allegation C – Abuse of Authority: PO Felix Liberato threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that PO Liberato called him “toots” and stated that he should not be in the men’s bathroom. When an unidentified bystander protested PO Liberato’s statements, PO Liberato allegedly replied, “Shut the fuck up” and threatened to arrest him. PO Liberato denied all of the alleged conduct, and PO Pacella did not recall the incident. § 87(2)(b) § 87(2)(b)

§ 87(2)(b) corroborated PO Liberato’s testimony about cab drivers’ behavior upon seeing police, but she did not have an independent recollection of this particular incident.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date